

REMARKS

In the Final Office Action, the Examiner noted that claims 1-20 are pending in the application, and claims 1-20 stand rejected. The Examiner has also objected to the abstract of disclosure.

Abstract of Disclosure

The Applicants thank the Examiner for his thoughtful comments regarding the abstract of disclosure, and submit that the abstract as now amended meets the requirements of MPEP §608.01(b). The Applicants, therefore, respectfully request the Examiner withdraw his objection.

Rejections under 35 USC §102

Claims 1, 3-7 and 9-20 were rejected under 35 USC §102 as being anticipated by Burg (U.S. Pat. No.: 6,193,571). Again, the Applicants respectfully submit that the Examiner has not established a prima facie case of anticipation. With respect to the propulsor in Claims 1, 7 and 14, Burg does not provide a steering nozzle as claimed, but only a non-movable discharge or convergent nozzle, which does not operate to steer the watercraft. Furthermore, the Examiner even admits that the grooves themselves in the convergent nozzle of Burg are used as a recess for the movement of trim elements (and therefore not as a means to control fluid flow). Burg in fact teaches away from using a steering nozzle. In column 7, lines 6-11 Burg teaches that "Major advantages of this inventive approach nozzle [the nozzle disclosed in Burg] over a fully articulated nozzle [the nozzle claimed by the Applicants] are that: 1) construction is very simple, 2) control system and actuators are less complicated, and 3) there is little or no back flow leakage. The back flow leakage associated with an articulated nozzle results in a loss of efficiency." Burg instead suggests the use of a control flap or rudder element to direct the discharge of the convergent nozzle, not a steering nozzle. Applicants incorporate and reiterate the comments in their first response with respect to Claims 2-6, 9-10 and 15-16 from their November 22, 2004 response.

With respect to Claims 11-13 and 17-19, the Applicants repeat and reiterate the meaning of the terms 0.001r, 1.5r, 0.002c, 0.4c, 0.01w and 3w have been defined in the description of the specification, see page 10, line 25 to page 11, line 27. The Applicants submit if the terms are specifically defined in the specification they do not need to be defined in the claims. Further, the Applicants submit that Burg does not provide a steering nozzle with at least one groove having these particular characteristics.

With respect to Claim 20, the Examiner states that in column 7, lines 11-14 "the addition of grooves 46 to the sides of the [discharge] nozzle for steering would anticipate at least four grooves". The Applicants respectfully submit nowhere in Burg is it taught to provide a steering nozzle comprising at least four grooves nor any other type of nozzle with at least four grooves for that matter. Burg does state in column 7, lines 11-15 that "it is possible to also use control flap like elements on either side of a discharge [convergent] nozzle and/or to use a rudder element disposed in the discharge jet". The Applicants submit that the words either side, apparently teaches putting the flaps on the outside of the convergent nozzle of Burg, while in apparently teaches putting a rudder element inside the convergent nozzle.

In addition to the above comments, with respect to Claims 1, 3-7, and 9-13, Burg does not describe a watercraft comprising a hull, an engine and a propulsor, but rather specifically addresses a propulsor. The Examiner has not addressed this area of the Applicants response of November 22, 2004. The Applicants respectfully submit that the Examiner must teach each and every element as claimed or withdraw this rejection under 35 USC §102 with respect to these claims.

Given the reasons set forth above in this response, the Applicants respectfully request withdrawal of this rejection.

Rejections under 35 USC §103

Claims 2 and 8 were rejected under 35 USC §103 as being unpatentable over Burg in view of Kobayashi (US Pat. No. 5,603,644). Again, the Applicants respectfully submit that the Examiner has not established a prima facie case of obviousness. The Applicants incorporate, reiterate and repeat their previous comments in their November 22, 2004 response with respect to missing claim elements.

The Examiner continues to reiterate in this Office Action that at the time the invention was made a person of ordinary skill in the art to which the subject matter pertains would have provided the boat in Burg with two propulsors both similar to the one propulsor of Burg. The Applicants in their November 22, 2004 requested that the Examiner in his next Official Action submit an affidavit detailing as specifically as possible such motivation (see 37 CFR §1.104 (d) (2)).

Section 1.104 states in part that "When a rejection in an application is based on facts within the personal knowledge of an employee of the Office, the data shall be as specific as possible, and the reference must be supported, when called for by the applicant, by the affidavit of such employee, and such affidavit shall be subject to contradiction or explanation by the affidavits of the applicant or other persons."

This is further supported by *In re Pardo*, 684 F.2d 912, 214 USPQ 673, 677 (CCPA 1982) where the court stated "Assertions of technical facts in areas of esoteric technology must always be supported by citation to some reference work recognized as standard in pertinent art and the appellant be given, in the Patent Office, the opportunity to challenge the correctness of the assertion or the notoriety or repute of the cited reference....Allegations concerning specific "knowledge" of the prior art, which might be peculiar to a particular art should also be supported and the appellant similarly given the opportunity to make a challenge."

The Examiner has not submitted an affidavit as required to back up his assertions of personal knowledge to allow the Applicants to challenge these assertions. Given the reasons set forth in the above response, the Applicants respectfully request that the Examiner either submit an affidavit, find new art or withdraw this rejection.

Claims 11-13 and 17-20 were rejected under 35 USC §103(a) as being unpatentable over Burg. Again, the Applicants respectfully submit that the Examiner has not established a prima facie case of obviousness. The Applicants incorporate, reiterate and repeat their previous comments in their November 22, 2004 response with respect to missing claim elements.

The Examiner continues to reiterate in this Office Action that at the time the invention was made a person of ordinary skill in the art to which the subject matter pertains would have provided grooves of Burg with the claimed length, width and

spacing as defined in these claims. The Applicants in their November 22, 2004 requested that the Examiner in his next Official Action submit an affidavit detailing as specifically as possible such motivation (see 37 CFR §1.104 (d) (2)).

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The Examiner has not submitted an affidavit as required to back up his assertions of personal knowledge to allow the Applicants to challenge these assertions. Given the reasons set forth in the above response, the Applicants respectfully request that the Examiner either submit an affidavit, find new art or withdraw this rejection.

Consideration of Information Disclosure Statement

The Applicants note that the Examiner has not considered the Information Disclosure Statement that was mailed on November 30, 2004 prior to the mailing of the Final Office Action on December 3, 2004 with a certificate of mailing and the proper fee under 37 CFR 1.97(c). The Applicants respectfully submit that the Examiner must consider these references and request that with his next response he gives the Applicants indication on their Form 1449A/PTO that he has done so.

CONCLUSION

For all the above reasons the Applicants respectfully submit that the application is in condition for allowance and that action is earnestly solicited.

Respectfully submitted,

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Dated



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